HOUSE BILL No. 1102

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-12.

Synopsis: Higher education funding. Eliminates state government approval requirements for a state university to acquire, construct, remodel, renovate, furnish, or equip a specific project. Provides a general assembly covenant that it will not terminate fee replacement appropriations made to cover debt service on state university bonds.

Effective: July 1, 2001.

Murphy

January 8, 2001, read first time and referred to Committee on Ways and Means.

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1102

A BILL FOR AN ACT to amend the Indiana Code concerning education finance.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 20-12-5.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. To pay the cost of a project authorized under this chapter, the following funds may be used:

(1) Any funds appropriated for the project by the current or any preceding general assembly. ~~subject to allocation of the funds by the state budget agency, with approval of the governor.~~

(2) Any funds derived from the issuance and sale of bonds by the trustees of any of the higher education institutions. ~~so long as the issuance of the bonds which are to be supported by mandatory student fees assessed all students has been approved by the general assembly for each applicable project.~~

(3) Any funds derived from earnings, farm, and miscellaneous sales, or other receipts. ~~so long as each project to construct buildings or facilities of a cost of greater than ninety thousand dollars ($90,000) or each project to purchase or lease-purchase land, buildings or facilities the principal value of which exceeds fifty thousand dollars ($50,000) is reviewed by the commission~~

~~for higher education and approved by the governor, on recommendation of the budget agency.~~

(4) Any federal funds granted and allowed a higher education institution for a project to construct buildings or facilities. ~~so long as each project of a cost of greater than ninety thousand dollars ($90,000) or each project to purchase or lease-purchase land, buildings or facilities the principal value of which exceeds fifty thousand dollars ($50,000) is reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency.~~

(5) Any available funds derived from gifts, bequests, devises, or from any other source not listed in ~~provisions~~ **subdivisions** (1) through (4). ~~of this section so long as each project to construct buildings or facilities of a cost of greater than ninety thousand dollars ($90,000) or each project to purchase or lease-purchase land, buildings or facilities the principal value of which exceeds fifty thousand dollars ($50,000) is reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency.~~

SECTION 2. IC 20-12-5.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. The general assembly may appropriate fee replacement monies for the replacement of student fees dedicated to pay the principal and interest costs of bonds ~~as approved by the general assembly,~~ and for lease-purchase costs. **If the general assembly makes such an appropriation, the appropriation must cover the period necessary to pay the principal and interest costs of the bonds, and the general assembly covenants with the purchasers of the bonds that the appropriation will not be terminated so long as the bonds are outstanding.**

SECTION 3. IC 20-12-5.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) As used in this section, "qualified energy savings project" means a facility alteration designed to reduce energy consumption costs or other operating costs, including the following:

(1) Providing insulation of the facility and systems within the facility.

(2) Installing or providing for window and door systems, including:

(A) storm windows and storm doors;

(B) caulking or weatherstripping;

(C) multi-glazed windows and doors;

(D) heat absorbing or heat reflective glazed and coated

windows and doors;
(E) additional glazing;
(F) reduction in glass area; and
(G) other modifications that reduce energy consumption.

(3) Installing automatic energy control systems.

(4) Modifying or replacing heating, ventilating, or air conditioning systems.

(5) Unless an increase in illumination is necessary to conform to Indiana laws or rules or local ordinances, modifying or replacing lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility.

(6) Providing for other energy conservation measures that reduce energy consumption or reduce operating costs.

(b) As used in this section, "qualified provider" means a person or business experienced in the design, implementation, and installation of energy and operational cost savings systems.

(c) As used in this section, "energy cost savings contract" means a contract between a higher education institution and a qualified provider for the implementation of at least one (1) qualified energy savings project and related measures.

(d) A higher education institution may undertake a qualified energy savings project as provided in this section. ~~If the part of the qualified energy savings project related to real property improvements is greater than five hundred thousand dollars ($500,000), the project must be reviewed by the commission for higher education and approved by the governor and the budget director on the recommendation of the budget committee. A qualified energy savings project does not require the prior approval of the general assembly, notwithstanding the source of payment for the project or bonds issued to fund the project.~~

(e) A higher education institution may submit a request for proposals to qualified providers for an energy cost savings contract and may enter into an energy cost savings contract with a qualified provider under this section. The contract must provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time. The contract may provide that energy cost savings are guaranteed by the qualified provider to the extent necessary to make payments for the qualified energy savings project. A qualified provider shall provide a sufficient bond to the higher education institution for the installation and the faithful performance of all the measures included in the contract. The contract may also include contracts for building operation programs and maintenance and management or similar agreements with the qualified provider to reduce energy or operational costs.

(f) A request for proposals must include the following:

(1) The name and address of the higher education institution.

(2) The name, address, title, and phone number of a contact person.

(3) The date, time, and place where proposals must be received.

(4) Evaluation criteria for assessing the proposals.

(5) A reasonably functional description of the facilities to be covered by the request for proposals or the maximum dollar cost of the qualified energy savings project subject to the request for proposals, or both.

(6) Any other stipulations and clarifications the higher education institution may require.

(g) The higher education institution shall select the qualified provider and enter into an energy cost savings contract or contracts for a qualified energy savings project that best meets the needs of the higher education institution. The higher education institution shall provide public notice of the meeting at which it proposes to award an energy cost savings contract by publication one (1) time, at least ten (10) days in advance, in newspapers described in IC 4-1-5-1. The public notice must disclose the names of parties to the proposed energy cost savings contract and contain a reasonably functional description of the qualified energy savings project and the measures covered by the contract and project.

(h) After reviewing proposals submitted under this section, a higher education institution may enter into energy cost savings contracts with a qualified provider if the higher education institution reasonably expects that the cost of a qualified energy savings project recommended in the proposal would not exceed the amount to be saved in either energy or operational costs, or both, within the ten (10) year period following the date installation is complete if the recommendations in the proposal are followed. An energy cost savings contract may also include a guaranty from the qualified provider to the higher education institution that either the energy or operational cost savings, or both, will meet or exceed the cost of the energy cost savings projects not later than ten (10) years after the date installation is complete.

(i) Energy cost and operational savings realized from a qualified energy savings project and an energy cost savings contract shall not reduce the amount of state appropriations otherwise available to the higher education institution.

SECTION 4. IC 20-12-6-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) Each corporation shall deposit to the credit of a special fund to be established and designated as the building facilities fund of the corporation or the institution under its control:

(1) all building facilities fees collected by the corporation; and

(2) to the extent provided or required by any resolution or trust indenture (referred to in section 7 of this chapter) adopted or approved by the governing board of the issuing corporation, all other fees, income, or funds pledged to secure the payment of bonds, and the interest thereon, issued under this chapter.

Each building facilities fund shall be used only for the purposes stated in section 4 of this chapter, and in connection with the issuance of bonds under the provisions of this chapter, the uses may be further limited by the provisions stated in the resolution or the trust indenture (referred to in section 7 of this chapter), adopted or approved by the governing board of the issuing corporation.

(b) The corporations may deposit to the credit of their respective building facilities funds, or may use for any of the purposes of this chapter without so depositing, any other funds which may be available for any of such purposes, from whatever source derived, including but not limited to:

(1) student tuition and other fees, earnings, charges, rentals, interest on permanent endowment funds or other interest, or other income;

(2) gifts or grants from the federal government or any federal agency or instrumentality or any public or private corporation, association, or person; and

(3) state appropriations. ~~made specifically for any of the purposes of this chapter.~~

(c) The building facilities fees and such other funds as may from time to time be deposited to the credit of the respective building facilities funds are appropriated to the corporation for the uses provided in this chapter without the necessity for any future appropriations.

(d) The money in the building facilities funds may be accumulated and held by the corporations for the purposes of this chapter and invested by the corporations pending the use thereof, and interest, dividends, or gains resulting from such investments shall be credited to such funds.

(e) In the event bonds shall be issued in anticipation of the collection of building facilities fees, the issuing corporation shall fix, charge, and collect such fees in amounts sufficient, together with other available funds, to pay ~~the~~ the interest on and the principal of such bonds, in accordance with the terms thereof, so long as any of the bonds shall be outstanding.

SECTION 5. IC 20-12-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 17. ~~(a) Except for notes issued under section 8.5 of this chapter and except as provided in subsections (d) and (e), no bonds shall be issued for a project by the corporations under this chapter unless the general assembly:~~

~~(1) has specifically approved the project to be financed through the issuance and sale of these bonds; and~~

~~(2) has provided the amount of bonds which may be issued to fund the costs of acquiring, constructing, remodeling, renovating, furnishing, or equipping the specific project approved.~~

~~(b) In addition to and in connection with the amount of bonds that may be issued by a corporation for a specific project as provided in subsection (a)(2), the corporations~~ **A corporation** may ~~also~~ issue bonds in amounts necessary to provide funds for debt service reserves, bond or reserve insurance, and other costs ~~without additional approval by the general assembly,~~ if these costs are incidental to the issuance of bonds for the project.

~~(c) The bonds regardless of when the amount of bonds was approved by the general assembly, may be issued in an amount not exceeding~~

~~(1) the amount of bonds approved by the general assembly together with the amounts described in subsection (b); plus~~

~~(2) the amount of the discount below par value, if bonds are sold at a price below par value under IC 4-1-5-1.~~

~~(d) Bonds may be issued by a corporation without the approval of the general assembly if, after the issuance, the total amount of outstanding bonds issued by the corporation without approval will not exceed one million dollars ($1,000,000). However, the bonds must be approved as provided in section 16 of this chapter.~~

~~(e) Bonds may be issued by a corporation without the approval of the general assembly to finance a qualified energy savings project (as defined in IC 20-12-5.5) if:~~

~~(1) annual operating savings to a corporation arising from the implementation of a qualified energy savings project are reasonably expected to be at least equal to annual debt service requirements on bonds issued for this purpose in each fiscal year; and~~

~~(2) the amount of bonds that may be issued by each corporation, other than refunding bonds and exclusive of costs described in~~

~~subsections (b) and (c), does not exceed ten million dollars ($10,000,000).~~

SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2001]: IC 20-12-5.5-2; IC 20-12-5.5-6; IC 20-12-6-16; IC 20-12-8-6; IC 20-12-8-7.